

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**PUERTO RICO LAND & FRUIT, S.E., et
al.,**

Plaintiffs,

v.

Civil No. 09-2280 (ADC)

MUNICIPIO DE CULEBRA, et al.,

Defendants.

ORDER

Before the Court is a motion filed by Puerto Rico Land and Fruit (“PRLF”) to compel specific performance of its settlement agreement with the Municipality of Culebra (“the Municipality”) and Culebra Conservation and Development Authority (“ACDEC”). **ECF No. 182 & 369**. The Municipality opposed said motion. **ECF No. 373**. Additionally, the Municipality filed a motion regarding breach wherein it alleges that PRLF failed to comply with its own obligations pursuant to the aforementioned agreement. **ECF No. 371**. PRLF did not respond or oppose the Municipality’s motion.

The Court referred the matter to Magistrate Judge Bruce J. McGiverin for a Report & Recommendation (“R & R”). **ECF No. 378**. Magistrate Judge McGiverin issued an R & R recommending the Court deny without prejudice PRLF’s motion to compel specific performance at **ECF No. 369** and deny the Municipality’s motion regarding breach at **ECF No.**

371. ECF No. 383. Additionally, the Magistrate recommended the following measures: (1) that the Municipality be ordered to show that it has taken measures to identify and secure permission from the owner of the land in question to place a permanent gate at the point where the access road meets PR-251; (2) make a good faith effort to gain permission for the permanent gate; and (3) if the true owner denies permission or cannot be identified, the Municipality should be ordered to accept PRFL's reasonable alternative to place a permanent gate on PRFL's property. **ECF No. 383 at 6.** As to PRFL, the Magistrate recommended that said party produce a progress report detailing the status of its submission for registration of the easement within 30 days of the Court adopting this R & R and continue to submit monthly informative updates to the Court and the Municipality until the easement is registered. **ECF No. 383 at 4.** The R & R informed the parties they had fourteen days to file objections to the same. The parties did not file any objections. The Court hereby deems the R & R unopposed and submitted for final determination.

After careful review of the record, the Court **ADOPTS** the R & R and herein incorporates it by reference in full. **ECF No. 383.** For the reasons outlined in the R & R, the Court **DENIES WITHOUT PREJUDICE** PRLF's motion to compel specific performance at **ECF No. 369** and **DENIES** the Municipality's motion regarding breach at **ECF No. 371.** The Court further orders that within 30 days of this Court adopting the R & R the Municipality shall identify the true owner of the land where the access road meets PR-251 and where a permanent gate is to be placed pursuant to the settlement agreement, and take any necessary measures to secure

permission from the owner of the land in question to place a permanent gate at that location. The Municipality shall submit informative motions to the Court and opposing counsel every 30 days after the adoption of the R & R by this Court providing proof of efforts expended to identify the owner, obtain permission from the true owner and noting whether the signage has been repaired and replaced. If the true owner denies permission or cannot be identified within 90 days of this Court adopting this R & R, the Municipality shall accept PRFL's reasonable alternative to place a permanent gate on PRFL's property and the parties shall promptly inform this Court when the permanent gate is placed or about the Municipality's failure to place the permanent gate. This Court also orders PRFL to produce a progress report detailing the status of its submission for registration of the easement within 30 days of the Court adopting this R & R and shall continue to submit monthly informative updates to the Court and the Municipality until the easement is registered, providing evidence of any actions taken to ensure compliance.

SO ORDERED.

At San Juan, Puerto Rico, on this 21st day of August 2019.

S/AIDA M. DELGADO-COLÓN
United States District Judge